

ATTACHMENT A: Factual Basis

At all times relevant, the defendants Mohareb Hamdan and Adail Hamdan, who are father and son, were the owners and operators of a gas station and convenience store located on Rawson Avenue, in Oak Creek, Wisconsin. In addition to selling gasoline at their store, the defendants sold cigarettes, cigars, and other tobacco products, including smokeless tobacco products such as moist snuff and chewing tobacco.

Like most states, the State of Wisconsin imposes an excise tax on the sale of tobacco products, including smokeless tobacco products such as chewing tobacco and moist snuff. In the case of chewing tobacco, the tax is equal to 71% of the manufacturer's list price for the product. For moist snuff, the tax is 100% of the manufacturer's list price.

When a retail business, such as the one operated by the defendants, purchases tobacco products from a distributor located in Wisconsin, the distributor collects the associated excise tax for the products and remits it to the Wisconsin Department of Revenue. If a retailer in Wisconsin purchases tobacco products from a distributor outside the State of Wisconsin that has not collected the Wisconsin excise tax, the retailer must collect the tax and remit it to the Wisconsin Department of Revenue along with a report summarizing the taxes due.

The Contraband Cigarette Trafficking Act ("CCTA") makes it a federal crime to receive, possess, sell, or purchase "contraband smokeless tobacco." 18 U.S.C. § 2342(a). As is relevant here, the term "contraband smokeless tobacco" means a quantity in excess of 500 units of smokeless tobacco on which the state excise taxes have not been paid. The Bureau of Alcohol, Tobacco, Firearms, and Explosive ("ATF"), which is an agency within the U.S. Department of Justice, is the federal agency responsible for investigating possible violations of the CCTA.

During the years 2015-2018, the defendants bought smokeless tobacco products from Sharif Enterprise, Inc., AR Distributors, Inc., and Shenango Distributors, Inc., which are related businesses located in Pennsylvania. These distributors do not collect state excise taxes that may be applicable to their products and, instead, notify their customers that they are responsible for any state and local taxes.

The following is a summary of the defendants' purchases of smokeless tobacco products from the Pennsylvania distributors, and the Wisconsin excises taxes applicable to such purchases, for the years 2015-2018. In fact, the only products the defendants bought from these distributors were tobacco products. During the years 2015-2018, the defendants did not file excise tax returns with the Wisconsin Department of Revenue and did not pay any applicable excise taxes for these products.

Year	Number of purchases	Units of Smokeless Tobacco	Purchase amount	Applicable Wisconsin Excise Tax
2015	23	4,075	\$17,503.05	\$9,056.27
2016	28	5,643	\$23,495.01	\$13,496.77
2017	34	5,888	\$26,917.69	\$15,185.77
2018	8	1,579	\$6,872.48	\$4,246.90
Total	93	17,185	\$74,788.23	\$41,985.71

On May 6, 2019, investigators from the ATF accompanied agents from the Wisconsin Department of Revenue on an inspection of the defendants' store. During the inspection, investigators from the ATF interviewed the defendants together. The defendants told the ATF investigators that they purchased their tobacco products from local distributors and that they had never heard of Sharif Enterprise, Shenango Distributors or AR Distributors. The defendants further indicated that, to the best of their recollection, they had never purchased tobacco products from these businesses.